



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2016-0118]**

**Commercial Driver's License Standards: Missouri Department of Revenue (DOR); Application for Exemption**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition; grant of application for exemption.

**SUMMARY:** FMCSA announces its decision to grant the Missouri DOR and all other State driver licensing agencies (SDLAs) a limited exemption from the Agency's commercial driver's license (CDL) regulations. These regulations allow a State to waive the CDL skills test for applicants regularly employed or previously employed within the last 90 days in a military position requiring operation of a commercial motor vehicle (CMV). The exemption extends the 90-day timeline to one year following the driver's separation from military service. The Missouri DOR believed that the 90-day timeframe is too short to take advantage of the waiver for many of the qualified discharged veterans entering and settling into civilian life. A similar exemption was granted to the Commonwealth of Virginia, Department of Motor Vehicles (VA DMV) and all SDLAs on July 8, 2014, effective through July 8, 2016. FMCSA has analyzed the Missouri DOR exemption application and the public comments and has determined that the exemption will achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

**DATES:** This exemption is effective July 8, 2016 through July 8, 2018.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-4325. E-mail: [MCPSD@dot.gov](mailto:MCPSD@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**Legal Basis**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

**Request for Exemption**

The Missouri DOR requested an exemption from 49 CFR 383.77(b)(1), which allows States to waive the skills test described in § 383.113 for applicants regularly

employed or previously employed within the last 90 days in a military position requiring operation of a CMV. The Missouri DOR proposed that it be allowed to extend the 90-day timeline to one year following the driver's separation from military service.

The Missouri DOR contended that the 90-day timeframe is too short for many of the qualified veterans to utilize while reentering civilian life. They stated that the Department has utilized the military waiver program for years and one of the most common reasons the applicant is not eligible is because the application is beyond the 90-day timeframe. Furthermore, the industry need for new drivers is continually growing each year and providing additional flexibility in § 383.77(b)(1) will help offset that need by transitioning fully-trained military veterans into civilian employment. They further stated that it is their goal to assure highway safety by licensing qualified veterans seeking employment following discharge. A more accessible waiver period would assist in meeting this goal and provide an opportunity to veterans.

FMCSA has previously determined that extending the 90-day skills test waiver period to one year following the driver's separation from military service would maintain a level of safety equivalent to, or greater than, the level achieved without the exemption (49 CFR 381.305(a)). An exemption extending the 90-day skills test waiver period to one year was granted to the Commonwealth of Virginia, Department of Motor Vehicles (Virginia DMV) and all SDLAs on July 8, 2014 (79 FR 38645). This exemption is in effect through July 8, 2016.

On March 16, 2016, FMCSA published a notice of proposed rulemaking (NPRM) and request for comments entitled "Commercial Driver's License Requirements of the Moving Ahead for Progress in the 21<sup>st</sup> Century Act and the

Military Commercial Driver's License Act of 2012" (81 FR 14052). This proposed rulemaking would extend the time period for applying for a skills test waiver from 90 days to one year after leaving a military position requiring the operation of a CMV for all States. The comment period on this notice closed on May 16, 2016. This proposed rulemaking will not be finalized by July 8, 2016, which is the VA DMV exemption expiration date. Therefore, this Missouri DOR exemption for all SDLAs is needed to cover the time between expiration of the Virginia exemption and any rulemaking that would make the exemption(s) moot.

A copy of the Missouri DOR's application for exemption is available for review in the docket for this notice.

### **Public Comments**

On April 11, 2016, FMCSA published notice of the Missouri DOR's application for exemption and requested public comment (81 FR 21443). The Agency received three docket comments submitted, which were all filed in support of the Missouri DOR request.

The American Association of Motor Vehicle Administrators (AAMVA) commented that on July 8, 2014, FMCSA had granted an extension to all SDLAs to extend the allowable timeframe for a military skills test waiver for up to one year. AAMVA applauded FMCSA for granting that exemption and proposing to make it a permanent regulatory change in the Agency's aforementioned NPRM. According to AAMVA, as that NPRM may not become final before the current exemption's [VA DMV] July 8, 2016 expiration, they requested FMCSA extend this important exemption for the maximum extent allowable.

The Oregon Department of Motor Vehicles (OR DMV) commented that they are fully supportive of Missouri's request for exemption from § 383.77(b)(1). Another individual commented that he was in favor of any exemption that benefits both the transportation industry and the veterans.

### **FMCSA Response and Decision**

The FMCSA has evaluated Missouri DOR's application and, following consideration of the comments submitted to the docket, has decided to grant the exemption from 49 CFR 383.77(b)(1). FMCSA does not believe that the veterans' driving skills would decrease during the additional months in which this exemption allows them to apply for a waiver of the CDL skills test. This exemption only extends the period during which application for the skills test waiver may be made, and does not revise any other provisions of the regulations. FMCSA determined that the exemption would maintain a level of safety equivalent to, or greater than, the level achieved without the exemption (49 CFR 381.305(a)).

Issued on: June 16, 2016.

---

T.F. Scott Darling, III,  
Acting Administrator.